

### **REMARKS/ARGUMENTS**

Claims 1-20 were pending.

Claims 1-3, 5-8, 10, 11 and 13-20 have been rejected. Claims 4, 9 and 12 were previously withdrawn. Claim 21 has been newly added.

By this paper, claims 1, 7 and 15 have been amended to require that the top coating will not fully burn but is capable of charring, a combustion step short of full burning. In addition, Claim 21 has been added and is dependent upon Claim 15; further defining the top coat of claim 15 as having the ability to char when exposed to flame. No new matter has been added by these amendments. See, e.g., ¶¶ [0022] and [0039] of the originally filed application.

#### **I. Claim Rejections Under 35 U.S.C. § 102**

Claims 1-3, 5-8, 10, 11 and 13-20 are rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent Publication No. US 2002/0114940 to Clemens et al. (hereafter “*Clemens*”).

*Clemens* is directed to an asphaltic coating system. Asphalt is a mixture of hydrocarbons and will, like any asphalt, burn completely and will not cease combustion upon charring. Thus, *Clemens* does not anticipate the claims as currently amended.

Accordingly, since *Clemens* does not teach each and every element of claims 1 or 15, these claims are not anticipated by *Clemens*. Applicants thus respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §102(b).

Since claims 2-3, 5-8, 10-11, 13-14 and 16-21 depend directly from amended claim 1 or 15, these claims incorporate all the limitations of amended claim 1 and are likewise not anticipated for the same reasons as asserted with regard to amended claim 1.

## **II. Conclusion**

In view of the aforementioned remarks and amendments, the Applicants believe that each of the pending claims is in condition for allowance. If, upon receipt and review of this amendment, the Examiner believes that the present application is not in condition for allowance and that changes can be suggested which would place the claims in allowable form, the Examiner is respectfully requested to contact Applicants' undersigned counsel at the number provided below.

Please charge any necessary fees that may be due in connection with this filing, or credit any overpayments, to Deposit Account No. 03-1250, Reference No. FDN-2799, Customer No. 43,309.

Respectfully submitted,

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